

## COMMISSION ON COMMON OWNERSHIP COMMUNITIES

**EAST GATE II HOMES ASSOCIATION,**  
Complainant,

v.

**Case No. 32-09**

**NEDRA BASILE,**  
Respondent

### **ORDER OF DISMISSAL WITHOUT PREJUDICE**

The Complainant, a homeowners association, filed this complaint against the Respondent, who at the time the complaint was filed owned a lot subject to the Complainant's governing documents. The complaint alleged that the Respondent was in violation of the governing documents by failing to repair a collapsing retaining wall. The Respondent denied liability, and claimed that the wall was damaged due to defects in the adjacent common area and therefore the responsibility of the Complainant to repair.

The Commission accepted jurisdiction of this dispute and set it for a hearing on February 25, 2010 before this Hearing Panel.

While the case was pending for its hearing, the Respondent notified the Panel that she had sold her home, was leasing it back for a month, and was vacating the property entirely by the end of February, 2010.

The Panel, mindful of the decision of the Court of Special Appeals in *Campbell v. Lake Hallowell Homeowners Association*, 152 Md. App. 139 (2003), *sua sponte* directed the Complainant to show cause why the case should not be dismissed as moot in light of these changed circumstances.

Complainant filed its objections to any dismissal, arguing that *Lake Hallowell* did not govern this dispute, that the Commission retained jurisdiction of the underlying dispute over the retaining wall, that the rights of the Complainant *vis-à-vis* third parties as yet unnamed were involved, and that the new owner should be permitted to intervene. Complainant did not dispute that the Respondent had sold her home and was vacating the property.

After due consideration, the Panel concludes that under Sections 10B-8 and 10B-9 of the Montgomery County Code it no longer has jurisdiction of this Respondent as she is neither an owner nor a resident of this common ownership community. The Panel's determination does not affect the merits of the underlying dispute.

It is therefore:

ORDERED, that this case is DISMISSED WITHOUT PREJUDICE.

Commissioners Antoinette Negro and Andrew Oxendine concur.

Any party aggrieved by this Decision may file an appeal with the Circuit Court of Montgomery County, Maryland, within 30 days after the date of this decision, pursuant to the court rules for the appeal of administrative agency decisions.

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Dinah Stevens, Panel Chair  
March 4, 2010